

481—56.9(135C) Factors determining selection of class of violation. In determining which class of violation will be designated in the citation, where more than one class is specified in the notation following the rule, the director of the department of inspections and appeals may consider evidence of the circumstances surrounding the violation, including, but not limited to, the following factors:

56.9(1) The length of time during which the violation occurred;

56.9(2) The frequency of the violation, i.e., whether the violation was an isolated or a widespread occurrence, practice, or condition;

56.9(3) The past history of the facility, as it relates to the nature of the violation, i.e., whether the violation was a first-time occurrence or one which has occurred in the past at that facility;

56.9(4) The intent of the facility, as it relates to the reasons the violation occurred;

56.9(5) The extent of any harm to the residents or the effect on the health, safety, or security of the residents which resulted from the violation;

56.9(6) The relationship of the violation to any other types of violations which have occurred in the facility, i.e., whether other violations in combination with the violation in question, caused increased harm or adverse effects to the residents of the facility;

56.9(7) The actions of the facility after the occurrence of the violation, including when corrective measures, if any, were implemented;

56.9(8) The accuracy and extent of records kept by the facility which relate to the violation, and the availability of such records to the department;

56.9(9) The number of other types of related violations occurring simultaneously or within a short period of time of the violation in question.